



Gary A. Grinnell, President and Chief Executive Officer

May 20, 2010

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: NCUA's Proposed Rule 742, Regulatory Flexibility Program – MBL personal liability and guarantee exemption

Dear Ms. Rupp:

On behalf of the Board and Management of Corning Federal Credit Union, I would like to take this opportunity to comment on the NCUA's Proposed Rule 742, which seeks to amend the current Regulatory Flexibility Program (RegFlex) in four areas: fixed assets, member business loans (MBLs), stress testing of investments, and discretionary control of investments. I wish to comment specifically on the NCUA's proposal to eliminate the exemption for requiring personal liability and guarantees for all Member Business Loans.

By way of background, Corning Federal Credit Union is a \$789 million asset institution serving over 78,000 members. We have offered MBLs since 2006. We have experienced much success in this area with no delinquency or charge offs in our \$55 billion MBL portfolio. Overall delinquency for our institution is currently at 0.18%, and net charge offs are at 0.21%.

Although we are supportive of NCUA's desire to strengthen the quality of credit union loan portfolios during these times of economic turmoil and an uncertain real estate market, we have serious reservations about the necessity of the current proposal and for reasons that will be more specifically described below do not believe that the wholesale removal of regulatory flexibility from the strongest performing credit unions is the best way to accomplish this.

To begin, the elimination of the personal guarantee exemption will do nothing to improve delinquency ratios in our view. From a practical point of view, the personal liability and guarantees of principals in a business only become a factor if the loan is already non-performing. Furthermore, if the loan is well collateralized and structured appropriately, the first recourse if the borrower falls into default would be to recover through foreclosure of the commercial

property or taking possession of the business assets. Going after the personal assets of the guarantors is only done as a last resort.

Secondly, the safest and most financially sound credit unions (i.e. those eligible for RegFlex status) generally have very conservative and prudent lending policies and practices and will typically only waive the personal and guarantee requirement in very limited situations. The limited instances where we have considered waiving the requirement for a borrower have been in situations when the merits of the request are so exceptional that competition for the loan is significant and results in the borrower having their pick of financial institutions within the local market. Since banks are not subject to the personal and guarantee requirement at a statutory level, they are free to waive this requirement case-by-case based solely on the merits of the request. Therefore, it is no surprise that the American Bankers Association has publicly come out in favor of this proposal, as they are not subject to requiring personal guarantees today. Restricting the strongest credit unions from the exemption option would hand the banks a major competitive advantage, allowing them to retain the best business borrowers for themselves, at the expense of credit unions, their members, and small business borrowers who already have far too few options for their financing needs.

To date many credit unions have been able to compete head-to-head and on a level playing field with the banks in this respect. However, removing the ability to offer this exception on the merits as the Board proposes will cause well capitalized credit unions with an established pattern of safety and soundness to lose a significant weapon in their competitive arsenal that could result in the inability of the credit union to compete effectively for the “cream of the crop” or best commercial lending opportunities available in the market. It is foreseeable that such a prohibition could cause us to lose some of our existing members to banks over this one stipulation. This can actually result in a degradation of loan portfolio quality over time, as the most solid and sought-after borrowers begin to migrate to banks and away from credit unions because the institution is no longer able to best serve their needs and requirements. Only those borrowers that under no circumstances are eligible to obtain a waiver of personal guarantee requirements from any financial institution would remain with credit unions under this scenario.

Third, we believe among other factors that timeliness of response and flexibility have been key in Corning Federal Credit Union’s ability to effectively compete in our local business lending market area. Our members recognize that if they present us with a loan request, we will provide them an answer within a reasonable amount of time, and we will work with them to determine the terms that will best serve their business needs. While NCUA’s proposed changes to RegFlex do include a waiver process on a case-by-case basis, in order for the waiver process to work effectively, approvals would need to be granted in a matter of hours, not weeks. Accounting for the inevitable increase in workload for the Agency that the new rule would engender, it is highly doubtful that this level of turnaround can be accomplished. Timeliness is critical when you have a member who is waiting to receive a decision on her loan application, and business operations, expansion, and real estate purchases are riding on this decision. That member will almost certainly take their business elsewhere, to a bank that can waive the personal guarantee requirement, if warranted, on the spot. Simply stated, an elongated waiver process really offers no relief and will most likely result in killing the deal.

Fourth, we currently have well established relationships with business members where we have made the reasoned and calculated decision to waive the personal guarantee requirement based on a variety of factors specific to that loan. If the new rule goes into effect, we will be forced to reach out to these members and explain that we would not be able to offer business loans under the same terms to them for any future borrowings. This would be a major inconvenience to these members and would likely result in them taking their relationships elsewhere. Given that all of these relationships are very strong, deep, and profitable, this would have a negative impact on the credit union's capital position, net worth and on our membership as a whole.

Finally, as Corning Federal Credit Union has opined in past comment letters to NCUA, we encourage the Agency to seek ways to add more flexibility into the system, not less. The reason that RegFlex has been such a successful program over the past nine years is it does not seek to punish those credit unions that have performed well over time and have prudent policies and guidelines, along with those institutions that need more oversight due to poor performance. One size indeed does not fit all. RegFlex is a self-policing program, in that credit unions that are not performing up to the requirements based on capital and CAMEL levels will naturally fall out of the program and become subject to the necessary level of regulation and oversight that is warranted. In addition, NCUA has the authority to remove any credit union from RegFlex at any time if they feel it necessary for safety or soundness reasons.

For the reasons cited above we would respectfully ask NCUA Board to reconsider the proposed rule changes to the Regulatory Flexibility Program with respect to the MBL personal guarantee and liability exemption. With the understanding that credit unions, along with all other players in the financial services industry, are facing some real challenges during the current economic downturn, and that some poor decisions have been made by some institutions, may we suggest that NCUA consider some alternative reforms to the RegFlex program. One possible alternative is to raise the capitalization requirement from the current 7.00% of assets to 8.00% or perhaps 8.50%. This would ensure that only the safest and most sound credit unions would be eligible for the regulatory relief offered through the RegFlex program.

Again, thank you for the opportunity to comment on the proposed revisions to the NCUA's Regulatory Flexibility Program. Should you have any questions regarding the contents of this letter, please contact me at (607) 962-3144.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary A. Grinnell", written over a light blue horizontal line.

Gary A. Grinnell
President and CEO